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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,719	04/29/2002	Joachim Hohne	A34900-PCT-USA	1050
21003	7590	03/10/2005	EXAMINER	
BAKER & BOTTS 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			KANG, INSUN	
			ART UNIT	PAPER NUMBER
			2124	
DATE MAILED: 03/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019,719

Applicant(s)

HOHNE ET AL.

Examiner

Insun Kang

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/29/02, 3/22/02, and 12/21/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responding to application papers dated 4/29/02, 3/22/02, and 12/21/01.
2. Claims 1-7 are pending in the application.

Information Disclosure Statement

3. The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. Each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609 subsection III. A(1) states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609 subsection III. C(1).

Drawings

4. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in

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the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Specification

5. The disclosure is objected to because of the following informalities: there appears to be an error in spacing between words and sentences throughout the specification: for example, see page 2. Appropriate correction is required.

6. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

i) The abstract repeats information given in the title and uses a phrase, which can be implied in lines 1-2. ii) There are two paragraphs in the abstract. iii) There appears to be an improper figure, "FIG. 1" in the last line. Appropriate correction is required.

Claim Objections

7. A claim 3 is objected to because of the following informalities: there appears to be errors: "mobile program codes is" in claim 3 needs to be corrected to "mobile program code." Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 1 recites the limitation "the code" in line 3. There is insufficient antecedent basis for this limitation in the claim. Per claim 1, it is unclear as to which mobile program code it is referring. It is interpreted as "the mobile program code."

Per claim 3, it is unclear as to which mobile program it is referring inline 1. It is interpreted as "the mobile program code."

Claim 7 recites the limitations "the fault or special event" in line 4. There is insufficient antecedent basis for these limitations in the claim.

Per claim 7, it is unclear as to which further mobile program code it is referring in the last line.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Stripf et al. (US patent 6,263,487) hereinafter referred to as "Stripf."

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Per claim 1:

Stripf discloses:

- installing a mobile program code for the control of an industrial installation ("The processes to be controlled at manufacturing sites...are operated and controlled by the operating and monitoring devices...that can be connected to the Internet and operated on the Internet...creates an operating and monitoring program that encompasses an operating and monitoring software program for creating ...directly transmittable over the Internet," col. 3 lines 23-38)
- transmitting a mobile program code from a remote location to the industrial installation and installing and commissioning the code independently on the industrial installation

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("The processes to be controlled at manufacturing sites...are operated and controlled by the operating and monitoring devices...that can be connected to the Internet and operated on the Internet...creates an operating and monitoring program that encompasses an operating and monitoring software program for creating ...directly transmittable over the Internet," col. 3 lines 23-38; "a programmable controller with a execution system in the form of a Java byte code interpreter can process the Java function blocks sent to the programmable controller over the Internet independently of a processor hardware architecture of the programmable controller (regardless of manufacturer)," col. 2 lines 27-43) as claimed.

Per claim 2:

The rejection of claim 1 is incorporated, and further, Stripf teaches:

-generating by means of the mobile program code further mobile program codes having a defined task, and transmitting the further mobile program codes to and within the industrial installation (i.e. col. 5 lines 27-43) as claimed.

Per claim 3:

The rejection of claim 1 is incorporated, and further, Stripf teaches:

-a mobile program codes is transmitted between the remote location and the industrial installation via ISDN, satellite, or Internet ("The processes to be controlled at manufacturing sites...are operated and controlled by the operating and monitoring devices...that can be connected to the Internet and operated on the Internet...creates an operating and monitoring program that encompasses an operating and monitoring

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software program for creating ...directly transmittable over the Internet," col. 3 lines 23-38) as claimed.

Per claim 4:

The rejection of claim 1 is incorporated, and further, Stripf teaches:

-the mobile program code is JAVA program code ("a programmable controller with a execution system in the form of a Java byte code interpreter can process the Java function blocks sent to the programmable controller over the Internet independently of a processor hardware architecture of the programmable controller (regardless of manufacturer)," col. 2 lines 27-43) as claimed.

Per claim 5:

The rejection of claim 4 is incorporated, and further, Stripf teaches:

-running the mobile program code on hardware provided for an open-loop or closed-loop control of the industrial installation (i.e. col. 5 lines 27-43) as claimed.

Per claims 6:

The rejection of claim 1 is incorporated, and further, Stripf teaches:

-the installed mobile program code is designed to monitor the industrial installation (col. 3 lines 23-38) as claimed.

Per claim 7:

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The rejection of claim 6 is incorporated, and further, Stripf teaches:

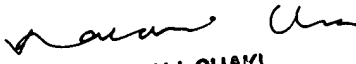
-independently monitoring the industrial installation by means of the mobile program code for faults or special events, in the event of which information needed to evaluate the fault or the special event is transmitted to the remote location by means of the mobile program code, or a further mobile program code (col. 5 lines 4-23) as claimed.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Insun Kang whose telephone number is 571-272-3724. The examiner can normally be reached on M-F 9:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 571-272-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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3/5/2005


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